

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Philip G. Reinhard	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	08 C 50241	DATE	7/21/2009
CASE TITLE	Wells vs. Affiliated Computer Services, Inc.		

DOCKET ENTRY TEXT:

Defendant moves to dismiss pursuant to Fed. R. Civ. P. 12 (b) (6). However, the motion is based on a release, which is an affirmative defense not properly raised in a 12 (b) (6) motion. See Deckard v. General Motors Corp., 307 F.3d 556, 560 (7th Cir. 2002). This matter, as the parties seem to recognize, should be addressed as a summary judgment motion. Accordingly, the motion to dismiss is stricken. The court declines to convert the motion to one for summary judgment. If defendant believes it is entitled to judgment as a matter of law, it must file a motion for summary judgment in accordance with Local Rule 56.1.

Philip G. Reinhard

Electronic Notices.

Courtroom Deputy Initials:	LC/jt
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